

since the peas were not immature, and its package label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On December 16, 1937, Mount Airy Canning Co., Preston, Md., having petitioned the release of the product, it was ordered released under bond, conditioned that it be relabeled.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

**28412. Misbranding of canned peas. U. S. v. 420 Cases of Canned Peas. Product released under bond for relabeling. (F. & D. No. 41007. Sample No. 58009-C.)**

This product was substandard because the peas were not immature and it was not labeled to indicate that it was substandard.

On December 7, 1937, the United States attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 420 cases of canned peas at Richmond, Va., alleging that the article had been shipped in interstate commerce on or about September 14, 1937, from Hampstead, Md., by Bankert Bros., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Hampstead Brand Early June Peas Packed by Bankert Brothers Hampstead Md."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture since the peas were not immature, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On December 10, 1937, Bankert Bros., claimants, having petitioned the release of the product, it was ordered released under bond conditioned that it be relabeled.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

**28413. Adulteration of tomato paste. U. S. v. 88 Cases of Tomato Paste. Default decree of condemnation and destruction. (F. & D. No. 41026. Sample No. 55252-C.)**

This product contained excessive mold.

On December 7, 1937, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 88 cases of tomato paste at Providence, R. I., alleging that the article had been shipped in interstate commerce on or about April 1, 1937, from Waterbury, Conn., by William Shore, Inc., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Solé Brand \* \* \* Tomato Paste \* \* \* Packed By Canadaigua Juice Co. Canandaigua, N. Y."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On December 30, 1937, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

**28414. Misbranding of canned cherries. U. S. v. 108 Cases of Canned Cherries. Consent decree entered. Product ordered released under bond for relabeling. (F. & D. No. 41040. Sample No. 64001-C.)**

This product was substandard because it contained an excessive number of pits and was not labeled to indicate that it was substandard.

On December 8, 1937, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 108 cases of canned cherries at Lewiston, Idaho, alleging that the article had been shipped in interstate commerce on or about July 21, August 19, and October 21, 1937, from Portland, Oreg., by the Columbia Van & Storage Co., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Porto Standard Fruit in Water Red Sour Pitted Cherries Packed for Mason Ehrman and Co. Main Office Portland Oregon."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture since there were present cans containing more than one cherry pit per 20 ounces of net contents, and its package or label did not bear a plain and